IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 92

ROLAND CAMARA, *Appellant*,

v.

MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, *Appellee*.

No. 180

NORMAN E. SEE, *Appellant*,

v.

CITY OF SEATTLE, *Appellee*.

APPEALS FROM THE DISTRICT COURT OF APPEALS OF THE STATE OF CALIFORNIA, AND THE SUPREME COURT OF THE STATE OF WASHINGTON.

BRIEF AMICI CURIAE OF THE MEMBER MUNICIPALITIES OF THE NATIONAL INSTITUTE OF MUNICIPAL LAW OFFICERS.

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Interest of Amici Curiae

The National Institute of Municipal Law Officers (NIMLO) is an organization composed of more than thirteen hundred municipalities located in each of the fifty

states, the District of Columbia and Puerto Rico. Each member city acts through its chief legal officer, known variously as City Attorney, City Solicitor, Corporation Counsel, Director of Law, etc.

This brief is filed pursuant to rule 42(4) of this Court. The members of NIMLO are political subdivisions of states, and this brief is sponsored by their authorized law officers.

The issue presented in these cases is of vital interest not only to the Cities of Seattle and San Francisco but to all municipalities which seek to prevent health and fire hazards and exercise other necessary police power functions under ordinances providing for reasonable inspections of commercial buildings and private houses. The issue is also of vital interest to the millions of inhabitants of those municipalities whose life and health and property are protected by such inspections.

The members of NIMLO were represented by brief amici curiae and also in oral argument in the first case presenting to this Court the issue of the constitutionality of municipal housing inspection, *District of Columbia* v. *Little*, 339 U.S. 1 (constitutional issue not decided). They were also represented by brief amici curiae in *Frank* v. *Maryland*, 359 U.S. 360 and *Ohio ex rel Eaton* v. *Price*, 364 U.S. 263. It is because of the collective experience of the NIMLO municipalities with the necessity for reasonable inspection ordinances, and their awareness of the danger which is posed to the health, safety, and general welfare of their respective communities by these attempts to eliminate those ordinances, that this brief amici curiae is filed.

Summary of Argument

The rights guaranteed by the Constitution are not absolute. In the case of the right to privacy under the fourth amendment, only *unreasonable* searches are prohibited.

The same limitation, though not in specific terms, applies to the right to privacy under the fourteenth amendment. Whether a search is or is not unreasonable depends upon a balancing of all interests for and against allowing the search. In this case, the interest of all the people in guarding the public health and safety outweighs the interest of the individual householder in being free from the slight inconvenience caused by reasonable municipal inspection of commercial buildings and dwellings. Commercial building and housing inspections are not unreasonable searches (or seizures) within the meaning of the Fourth or Fourteenth Amendments.

ARGUMENT

I. Constitutional Prohibitions Apply Only to Searches Determined To Be "Unreasonable" After Consideration of All Interests and Facts.

The civil liberties guaranteed by the Constitution are not absolute. They are subject to reasonable limitations in the exercise of the police power of the state. *American Communications Ass'n.* v. *Douds,* 339 U.S. 382, 398-99. This Court has said:

> "We have never held that such freedoms are absolute. The reason is plain. As Mr. Chief Justice Hughes put it, 'Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excess of unrestrained abuses.' " Id. at 399.

Moreover, the guarantee of individual privacy by the Fourth Amendment is by its language specifically qualified. It is not an absolute prohibition of all searches of commercial buildings and houses. It prohibits only those which are "*unreasonable* searches." (Emphasis added.)

The same limitation must be read into the due process of law clause of the Fourteenth Amendment. The determination of whether inspection of commercial buildings under the San Francisco and Seattle ordinances is an *unreasonable* search within the meaning of the Constitution will depend upon a balancing of interests between the right of an individual to privacy in his own home or commercial building and the duty of a municipality to guard the health and welfare of all its people through the exercise of its police power. It is to this balancing of interests that the Amici Curiae wish to direct their argument. Because of the collective experience of more than thirteen hundred NIMLO member cities all over the nation in fire prevention and sanitation, the Amici Curiae feel particularly qualified to bring to the attention of this Court the gravity and importance of the public interest in the preservation of reasonable inspection ordinances.

II. The Public Interest Requires Commercial and Housing Inspections

Commercial building and dwelling inspections cannot be made from a courthouse. It is not a question primarily of the inconvenience involved in procuring a warrant every time there is a complaint as to unsanitary or unsafe conditions. The fact is that the public cannot be protected merely by following up warrantable complaints. The major public health and safety programs in this country are grounded on the concept that it is through prevention of conditions which result in health and safety hazards, and not in the punishment of violators, that the public welfare is best protected.

A reversal of the decisions of the state courts in these cases would destroy the systems of preventive inspections now set up all over this country, and would make fire and

safety inspectors mere process servers for the purpose of abating conditions which have already grown to the stature of public menace. Effective health, fire and safety administration is not based upon complaints, but is the result of periodic scientific checks by trained inspectors to determine health, fire and safety conditions and recommend such corrective action as is needed to prevent or eliminate hazards and dangers. This fact is amply illustrated by the results of a test survey conducted by a grand jury in New York City convened to investigate hazardous and unsanitary conditions in housing. Surveyed by an inspection team were fifteen square blocks of housing in three respective areas of Brooklyn, in which 567 housing division violations had been previously reported on complaint. The inspection survey revealed an actual total of 12,445 violations in the test area, many of them classed as "hazardous." Moreover, other New York City inspections indicated that this ratio was not out of line. Grand Jury Presentment, "In the Matter of the Investigation of the Enforcement of Any and All Laws Concerning Hazardous and Unsanitary Conditions in Dwellings, etc.," Kings County Ct., N.Y., pt. 1, pp. 6-8 (January 28, 1953).

Only 567 violations on file prior to the test inspection as against 12,445 violations after the test! Can there be any doubt of the need for regular preventive inspections?

III. Illustrative City Experience Underscores the Health and Safety Needs Which Can Only Be Met by Routine Periodic Inspections.

Programs of preventive inspection similar to that conducted by San Francisco and Seattle have drastically reduced fire hazards in countless other cities in this country. These inspections have been part of a scientific plan to educate the householder into avoiding catastrophe rather than

confining municipal efforts to extinguishing fires after they have occurred.

History is replete with city-wide fires: London in 1666, New York City in 1835, Boston in 1872, Chicago in 1871, and Baltimore in 1904, and Seattle in 1889.

Destructive fires took a toll of 12,000 lives and nearly $1.75 billion in property in 1965 in the United States according to a report by the National Fire Protection Association, "Fires and Fire Losses Classified—1965," Fire Journal, Vol. 60, No. 5, September 1966. The fire fatality total showed an increase of 100 over the previous year, and brought the figure close to the record mark of 12,100 fire deaths reported in 1954. One small note of encouragement in the report was a slight decline in fire deaths in homes. In 1965 approximately 6,500 persons were killed in home fires, compared with 6,550 in 1964. Almost one-third of all fire victims in the home—about 2,100—were children. The 1965 property loss total was $1,741,300,000, a 5.4 per cent increase from the previous year, when fire cost $1,652,700,000. 1965 was the sixth successive year in which the loss total has exceeded the $1.5 billion mark. Among the principal factors in the increase in property losses was a sharp rise in the cost of fires in industrial plants, private dwellings, stores, hotels and churches. *Ibid.*

There is a great need for inspection in connection with garbage and rodent nests, two of the greatest sources of the spread of disease in this country. If the health officers of all the cities of the country are to wait for the complaints of neighbors and then issue warrants predicated upon the information received, the effective work that is being done in preventing epidemics in this country will henceforth be curbed. For every neighbor who complains, there are hundreds who are unwilling to become involved in a backyard fight to preserve the health of the community, others who

are phlegmatic to the danger, and still others who are joint offenders:

The Chicago Board of Health, from November, 1965 to December, 1966, conducted a massive program to eliminate rodent infestation in the city on a door to door, block by block basis, inspected 46,007 buildings of which 18,654 were found to be rodent infested. In addition to being rodent infested, 80% of the buildings inspected were found to be insect infested. The Chicago Fire Prevention Bureau, from January 1 to December 1, 1966, conducted scheduled or systematic inspections of 67,155 residential, 14,014 hotels, 51,360 industrial, 37,458 commercial, 12,548 schools, 2,843 hospitals and 6,623 day nurseries. And during the same period of time the Chicago Building Department made 47,461 inspections pursuant to *complaints received*, 37,168 inspections in conservation areas, and 22,713 buildings as prescribed by the City Code.

For the year 1965, the City of Cleveland Division of Housing effected 50,254 inspections and found 42,622 violations. The Cleveland Health Department made 55,913 inspections of commercial establishments and found 33,809 violations, and inspected 38,312 dwellings and found 27,553 violations. In addition the Cleveland Fire Prevention Bureau made 17,080 inspections and 7,422 reinspections, and found 14,892 violations.

The City of Boston Housing Inspection Department, during the period May, 1965 through September, 1966, inspected 48,806 dwellings, 20,056 buildings, found 56,338 violations, and made 44,484 reinspections. The Boston Redevelopment Agency also conducted 6,220 inspections during that period.

The Baltimore Bureau of Building Inspection made 13,408 inspections in 1965. As was shown in *Frank* v. *Maryland*, 359 U.S. 360, 372, fn.16, the Baltimore Health Department

had made 36,119 housing sanitation inspections in the year 1958.

The City of Los Angeles Conservation Bureau made a total of 129,574 inspections in 1965-66. And during that same period the Los Angeles Bureau of Fire Suppression inspected 76,527 dwellings, made an additional 183,596 general inspections, 7,962 vacant lot inspections and 5,333 unclassified inspections, during the course of which they found a total of 28,569 hazardous violations.

The City of Portland, Oregon conducted home surveys of 27,374 dwellings in 1966, and found a total of 4,514 violations of health and safety regulations. During 1965 the Portland Fire Marshall conducted 15,851 routine fire inspections, and 8,827 special inspections on complaints, and noted a total of 17,209 violations.

The City of Jacksonville, Florida, conducted 21,111 fire prevention inspections and reinspections of apartment buildings, business and industrial establishments in 1965, and during the same period the Jacksonville Health Department conducted a total of 135,330 inspections.

The City and County of San Francisco, whose ordinance is involved in the instant case, through its Health Department made inspections in 1965-66 as follows: Apartments 46,626, Hotels 8,105, Dwellings 8,251, for a total of 62,982. The San Francisco Public Works Department for the same period conducted 13,337 building permits inspections, 52,137 building inspections, 43,478 electrical inspections and 33,073 plumbing inspections. The San Francisco report advised that their inspectors have been refused entry to premises on less than ten occasions during the fiscal year 1965-66.

The City of Seattle conducted the following routine fire inspections of commercial and industrial buildings: 131,971 in 1962; 88,297 in 1963; 63,516 in 1964 and 85,220 in 1965.

These statistics bear out the fact that hundreds of thousands of inspections are made by cities each year without a warrant and are sanctioned by the overwhelming majority of the people.

Cities maintain these costly inspection programs because their people feel they are necessary for the protection of the general health, safety and welfare. The local governments of this nation spend billions of dollars each year on sanitation activities. It is not the zeal to render a public service that impels cities to maintain these costly sanitation programs. It is the recognition of the fact that the control of garbage is the primary step in the control of certain very serious diseases. For example, the danger of typhus, where the infection results from the bites of insects borne by rats, is tremendously increased where the garbage sanitation is not adequately controlled. The same danger exists where housing inspectors are not allowed to inspect dwellings or commercial buildings for rodent infestation and other health and safety hazards.

Possible health or safety hazards in Appellants' building are not Appellants' business alone. Fires ignited by safety hazards which might have been uncovered by municipal inspection spread to adjoining buildings and houses, and have been known to level entire city blocks. Rodents which breed in filth do not stay at home, nor do the disease germs which they spread. A man's home may be his castle, but that castle no longer sits on a hill surrounded by a moat. The modern "castle" is connected to a common water system, a common sewer system, a common garbage collection system, a common police, fire, health and welfare service, a common telephone service, a common gas line, a common electric line, common streets, alleys, sidewalks and drains, and are frequently connected by common walls to

the houses on either side. A man's home is his "castle," but cities through health and safety inspections are trying to keep it from becoming his "casket."

The case of the open garbage can may not be as intriguing to students of constitutional law as a case involving freedom of speech and assembly, but the assemblage of rodents and germs can have equally far reaching effect. A colony of rats is capable of increasing at the rate of six percent per day. One germ, after thirty divisions, becomes one billion germs—a formidable armed enemy. This is not fanciful, but realistic. To municipal officers, in constant touch with health and safety problems, it is impossible to shrug off the very real dangers that lurk in the everyday problems of sanitation. The practical administrative obstacles to operating inspection systems under laws which require warrants issued upon a showing of probable cause to suspect a violation of the building, housing, health or sanitary code before entering the house or building cannot be urged too strongly. It just cannot be reasonably done that way. Cause to suspect a violation would be present only in that portion of cases where complaints have been received or where a nuisance situation has reached the point where it can be seen or smelled from outside the building. Olfactory health control is no answer to the major health and safety problems of this country. The violations that smell represent too small a portion of the whole. By the time putrefaction sets in, very valuable time has been lost and an emergency phase has begun. The whole public health program is predicated upon the basic principle that improper practices must be corrected and abated *before* they reach the stage of glaring danger.

If building and housing inspection ordinances are invalidated, countless cases of defective building and household plumbing which inspections would discover will be

permitted to continue uncorrected. Defective plumbing may cause back siphonage of sewage and other household wastes into the public water supply. The amoebic dysentery epidemic in Chicago in 1933, resulting in 100 deaths in over 1,000 known cases, was caused by just such a situation. *Amoebic Dysentery in Chicago*, 24 Am. J. Pub. Health 756 (1934). Water is also a vehicle for the dreaded diseases of cholera and typhoid fever.

The invalidation of commercial building and housing inspection ordinances would prevent the effective checking of electrical work for fire hazards, or of hot air furnaces to determine whether proper combustion is achieved so as to prevent the escape of noxious gas. It is worth noting that about two years after the attempted inspection in *District of Columbia* v. *Little*, 339 U.S. 1, a fire gutted the home of the respondent and burned to death her two-year-old child. Washington Star, Aug. 6, 1949, p. A-20, col. 1; Aug. 7, 1949, p. A-7, col. 7. While the cause of the fire was reported as undetermined, the incident serves as a grim reminder of the kind of loss that can frequently be prevented by municipal inspection.

Field inspections also play a vital role in urban redevelopment and slum clearance. D. C. Department Licenses & Inspections Rep., "Housing Code Enforcement" (Dec. 24, 1958). Federal government statistics show that slums, which constitute only 20% of the total residential area of the average American city, produce 35% of all fires, 45% of major crimes, and 50% of disease. Id. at 23. In the important case of *Berman* v. *Parker*, 348 U.S. 26, 32, this Court recognized that:

> "Miserable and disreputable housing conditions may do more than spread disease and crime and immorality. They may also suffocate the spirit by reducing the

people who live there to the status of cattle. They may indeed make living an almost insufferable burden."

It is equally true and imperative that the Fourth Amendment should not be interpreted as constituting a bar which prevents the legislature from protecting the values pointed out so vividly in *Berman* at 348 U.S. 33 where this Court said:

> "The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled."

To impede the routine, periodic, area-wide non-discriminatory "civil" inspection of buildings and dwellings to protect these concepts and values by the requirement of obtaining hundreds of thousands of warrants in a time and court consuming process can serve but one purpose, and that it to endanger the continued existence of our nations cities.

There is also grave doubt whether any of the present state constitutional and statutory provisions which authorize a court to issue warrants for specific kinds of searches and seizures, mostly in the criminal area, would permit the issuance of a warrant for health and safety inspections.

IV. The Need for Periodic Inspections Has Been Recognized Not Only by Cities But by the Congress in Its Efforts to Solve the "City Crisis".

The "city crisis" is largely encompassed within the slum areas of cities. Area-wide, planned inspections of buildings are a major part of the Federal-City Cooperative pro-

gram to deal with the elimination of substandard homes which are thus unfit for human habitation.

The Congress has adopted federal-aid programs and authorized grants and the expenditure of billions of dollars to cities to rehabilitate and improve the housing and living conditions in our cities. A total financial responsibility for more than $78 billion was involved in the programs of the Department of Housing and Urban Development as of September 30, 1966. In order for a city to obtain federal-aid for slum clearance, urban renewal, and low-rent public housing, it must comply with the "Local Responsibilities" as set out in Sec. 101(a)(c) of Title 1, Housing Act of 1949, as amended, as follows:

> ". . . That commencing three years after the date of enactment of the Housing Act of 1964,* no workable program shall be certified or re-certified unless (A) the locality has had in effect, for at least six months prior to such certification or re-certification, a minimum standards housing code, related but not limited to health, sanitation, and occupancy requirements, which is deemed adequate by the Administrator, and (B) the Administrator is satisfied that the locality is carrying out an effective program of enforcement to achieve compliance with such housing code. . . ."

Under authority of this Act, the Administrator published a "Workable Program for Community Improvement, Answers on Codes and Ordinances, Program Guide 1," which sets out the following specific requirements with which a city must comply in order to be eligible for federal-aid:

> ". . . a codes review committee or similar group to review codes and code enforcement technically and objectively.

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* September 2, 1964 (footnote added).

"... the adoption of modern building, plumbing, electrical, housing and fire prevention codes during the first year after initial certification.

"... effective enforcement of codes following adoption and planned systematic housing code compliance program to be started within one year after the adoption of the housing code.

"... accurate reporting on compliance activity and a showing that there is a reasonable use of appropriate local resources in terms of inspectors and funds needed to enforce compliance with the codes."

The importance of code enforcement is also shown by the fact that the Federal Government through the Department of Housing and Urban Development has a specific program of federal assistance to local government to stimulate such enforcement.

It is submitted that the added burden of obtaining a Fourth Amendment warrant for each inspection under the requirements of Federal Laws would greatly impede the programs which the Federal Government and cities have instituted to alleviate the persistence of wide-spread slums and blight which have resulted in a marked deterioration in the quality of the environment and the lives of large numbers of people throughout the nation.

V. Interest of Individual Commercial Property Owner and Householder in Absolute Privacy

The *reasonableness* of the search involved in these cases depends upon a balancing of interests. It has been shown that the interest of the people—acting through their agents, municipalities—in exercising police power through health and safety inspections is indeed great. What are the interests of the individual owner in maintaining an absolute

right of privacy in his commercial building or home against such inspections.

It should be noted initially that the overwhelming majority of building and home owners feel their interests lie in permitting such inspections, and welcome the periodic visits of municipal inspectors which they know can uncover hazards the correction of which may save their lives by stopping fire or disease. Yet what of owners who, like Appellants, feel differently? What are the dangers to such property owners if inspection is allowed?

Unlike the householders in all cases in this Court where searches have been declared unconstitutional, these appellants are subject to no criminal prosecution. The inspecting official is not looking for evidence of a crime. Under the Seattle and San Francisco ordinances, as under most inspection ordinances, if a health or safety hazard is found the owner is merely notified to correct it and a penalty attaches only if he fails to comply. The result of the inspection is not that a defendant is convicted of a crime because of discovered evidence, but that an unsafe condition in his building or home is corrected. This Court has correctly held that properly circumscribed inspections without warrant, as an adjunct to a regulatory scheme for the general welfare of the community and not as a means of enforcing the criminal law, are valid. *Frank* v. *Maryland,* 359 U.S. 360.

But what of the nuisance to the householder caused by inspections? There is no contention in the instant cases that the owners were harassed by repeated inspections, nor that the inspections in question were to be made at an inconvenient time of the day. Indeed, the San Francisco ordinance under attack requires that the inspection be made at a reasonable time, and the particular inspection involved was attempted to be made during a reasonable hour. No facts on the time of the attempted Seattle inspection are

given. There is no contention in the instant cases that the inspectors had any motive other than the discovery of a possible health, fire or safety hazard. This is not the case of the knock on the door in the middle of the night, or even of interference with the family dinner hour. The rule of reasonableness which has been developed in cases passing upon due process of law (and which is specifically incorporated in the language of the Fourth Amendment forbidding only *unreasonable* searches) is always a protection against the capricious action of government officials. It cannot be doubted that abuses of the health and safety inspection ordinances could be remedied if they should transpire.

VI. Balancing of the Interests of Public Need and Individual Privacy

When the interests are balanced, then, the scales are grossly uneven. In order to preseve the nebulous private right of the Appellants and a few others like them, this Court is asked to jeopardize the lives and health of millions of city residents the nation over. One death from fire or disease originating in a filth strewn cellar should be sufficient to tip the scales but in fact thousands of such deaths are a realistic possibility.

The fundamental purpose of the Fourth Amendment was certainly to secure privacy in the home, and the due process of law clause of the Fourteenth Amendment also protects the right of privacy. But it must be remembered that under the police power there is lawful interference in many instances with the liberty of individuals, their right to move around and their right to use their property. Individual freedom must yield in some cases to the enforcement of reasonable regulations for the public welfare. The individual's right of privacy in his home should not give him the

right to refuse entry for a reasonable fire or health inspection any more than the right of free speech gives the right falsely to shout "fire" in a theater, *Schenck* v. *United States,* 249 U.S. 47, 52, or the right of freedom of religion gives the right to offer human sacrifice, *Reynolds* v. *United States,* 98 U.S. 145, 166.

Where public health and safety is at stake, this Court has sanctioned, as against constitutional objection based on individual rights, the power of the government summarily to enter premises and seize and destroy putrid food, *North American Cold Storage Co.* v. *Chicago,* 211 U.S. 306, and the power to provide for compulsory vaccination, *Jacobson* v. *Massachusetts,* 197 U.S. 11. Indeed, it has already recognized what the Amici Curiae urge upon it now:

> "Time and experience have forcefully taught that the power to inspect dwelling places, either as a matter of systematic area-by-area search or, as here, to treat a specific problem, is of indispensable importance to the maintenance of community health; a power that would be greatly hobbled by the blanket requirement of safeguards necessary for a search of evidence of criminal acts." *Frank* v. *Maryland,* 359 U.S. 360, 372.

VII. One Rebel a Year

The dissent in *Frank* v. *Maryland,* 359 U.S. 360, 384, suggests that "Submission by the overwhelming majority of the populace indicates there is no peril to the health program." The Amici Curiae are unwilling to accept a theory which makes the preservation of public health and safety dependent upon consistent submission by citizens to an invasion of their constitutional rights. If we believed housing inspections to be unconstitutional, we would encourage citizens to resist!

It is true that most housing occupants now welcome the

periodic visits of municipal inspectors. But there are others who, while realizing the value of housing inspection, are more concerned at the moment the inspector knocks on their door with the immediate prospects of having to spend time and money to correct possible defects.

The experience of the City of Portland, Oregon, with a program of voluntary home inspection indicates what can happen where entry is by consent. The records of the city for the year 1966 show that out of 16,171 calls made where occupants were at home, entry was refused in 2,540 cases. In the inspections which were made, 4,514 hazardous conditions were noted and called to the attention of the occupants.

"One rebel a year," says the *Frank* dissent, is not too great a price to pay for the right of privacy. The Amici Curiae submit that the human suffering and loss of life from fire and disease which can result from the undetected code violation of even one rebel a year are too great a price to pay for the type of privacy which Appellants seek. That there may be a significant increase in the number of refusals of entry if this Court declares housing inspection of the kind here involved unconstitutional is a reasonable, and frightening, possibility.

Conclusion

It is worth noting that in over 150 years of city *in rem* inspections for health and safety purposes, only one appellate court has held that a Fourth Amendment warrant is required and it was affirmed on appeal to this Court for other reasons without reaching the constitutional issue. *District of Columbia* v. *Little,* 339 U.S. 1. It is also noteworthy that not one of the five highest state courts to pass on this question since this Court's landmark decision in *Frank* v. *Maryland,* 359 U.S. 360, have found fault with the rule that reasonable inspections are constitutionally imperative for the protection of the health safety and welfare of the millions of inhabitants of cities. *M. DePass* v. *City of Spartanburg,* 107 S.E. 2d 350 (S.C. 1959); *St. Louis* v. *Evans,* 337 S.W. 2d 948 (Mo. 1960); *Camara* v. *Municipal Court,* 237 Cal., App. 2d 128, 46 Cal. Reptr. 585 (1965); *Commonwealth* v. *Hadley,* 1359 Mass. Adv. Sheets 1966, decided by the highest court of Massachusetts on December 2, 1966; and *Seattle* v. *See,* 67 Wash. 2d 465, 408 P.2d 262 (1966).

This brief is not submitted with a desire to weaken the individual rights guaranteed to all of us by the Constitution, but in an attempt to put those rights in a proper perspective. It is earnestly submitted that it was never the intended purpose of the Fourth and Fourteenth Amendments to prevent reasonable building and housing inspections to protect the public health and safety, and they should not be expanded to that point. It has been the vigilance of public health and safety inspectors and their well-integrated programs that have saved this country from some of the epidemics, scourges and conflagrations that would otherwise inevitably have occurred. To confine inspections to instances where there is reason to suspect a hazardous condition from outside the commercial building or house would

be to cause the preventive health and safety programs based upon periodic scientific checks to grind to a halt in cities throughout the nation. The decisions of the Courts below should be affirmed.

Respectfully submitted,

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